

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JERRY MCGOWAN, : Case No. 1:02cv408
Plaintiff, : Judge Beckwith
v. : Magistrate Hogan
BOB EVANS FARMS, INC., d.b.a. : PLAINTIFF'S MOTION TO DISMISS
BOB EVANS RESTAURANTS, et al. : DEFENDANT RUSTY TEAGUE ONLY,
: AND TO REMAND TO THE COURT
: OF COMMON PLEAS
: OF WARREN COUNTY FOR LACK OF
: SUBJECT MATTER JURISDICTION

* * * *

Now comes the Plaintiff and hereby moves the court to dismiss this case against Defendant Rusty Teague only, due to a settlement with Teague, and to remand this case to the Court of Common Pleas of Warren County, Ohio, for lack of subject matter jurisdiction. The reason for this motion is set forth in the accompanying memorandum.

s/ William M. Gustavson
Ohio Bar Number 0016674
Attorney for Plaintiff
1011 Paradrome Street
Cincinnati, Ohio 45202-1516
Telephone: (513) 621-4477
Facsimile: (513) 421-3043
E-Mail: wmg@gustavsonlaw.com

MEMORANDUM

This action was filed in the Court of Common Pleas of Warren County, Ohio. Defendant Teague, a law enforcement officer, removed this case to federal court. The sole basis of jurisdiction in the removal was the claim against Teague in the complaint under 42 U.S.C. 1983.

The claim against Teague has been settled . The Plaintiff hereby requests the court to dismiss the Plaintiff's claims against Teague only, with prejudice. Further, since there is no independent basis for jurisdiction in the federal court, the Plaintiff requests the court to remand this case back to the Court of Common Pleas of Warren County, Ohio, to pursue the remaining claims against the other Defendants.

s/ William M. Gustavson
Ohio Bar Number 0016674
Attorney for Plaintiff
1011 Paradrome Street
Cincinnati, Ohio 45202-1516
Telephone: (513) 621-4477
Facsimile: (513) 421-3043
E-Mail: wmg@gustavsonlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2003, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following :David P. Kamp, Attorney for the Defendant Camille Nuckols; Glenn V. Whitaker, Attorney for Defendant Bob Evans, Inc.; and Steven LaForge, Attorney for Defendant Rusty Teague.

s/ William M. Gustavson
Ohio Bar Number 0016674
Attorney for Plaintiff
1011 Paradrome Street
Cincinnati, Ohio 45202-1516
Telephone: (513) 621-4477
Facsimile: (513) 421-3043
E-Mail: wmg@gustavsonlaw.com